

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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AGUSTIN CANOSA MARTINEZ,  
ERMANNO CAVARA,  
MARCO CAVARA,  
MASSIMO MAZZACCONI,  
ANNA DANIELA MUSIANI,  
JOSEF JOHANN SCHNEIDER,

Plaintiffs,

v.

PETRÓLEOS DE VENEZUELA, S.A.,

Defendant.  
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Civil Index No. 1:23-cv-8923

**COMPLAINT**

Plaintiffs, by their undersigned counsel, as and for their Complaint against defendant Petróleos de Venezuela, S.A. (“PDVSA”), allege as follows:

**NATURE OF THE ACTION**

1. This is a breach of contract action arising from PDVSA’s failure to make contractually mandated payments on certain securities as described below (the “Securities”), held by Plaintiffs and issued by PDVSA pursuant to indentures as described below (individually, an “Indenture” and collectively, the “Indentures”). For their relief, Plaintiffs seek payments of the unpaid principal of, and the accrued and unpaid interest on, their Securities, as provided in the Indentures and in the Securities themselves, under New York law.

**THE PARTIES**

2. Plaintiff Agustin Canosa Martinez is a natural person who is a citizen and resident of Argentina.

3. Plaintiff Ermanno Cavara is a natural person who is a citizen and resident of Italy.

4. Plaintiff Marco Cavara is a natural person who is a citizen and resident of Italy.
5. Plaintiff Anna Daniela Musiani is a natural person who is a citizen and resident of Italy.
6. Plaintiff Massimo Mazzaccone is a natural person who is a citizen and resident of Italy.
7. Plaintiff Josef Johann Schneider is a natural person who is a citizen and resident of Germany.
8. Defendant PDVSA is a capital stock corporation organized under the laws of the Bolivarian Republic of Venezuela (the “Republic”), majority owned by the Republic, which is a Foreign State as defined in 28 U.S.C. § 1603, and PDVSA is therefore an Agency or Instrumentality of a Foreign State, as defined in 28 U.S.C. § 1603.

#### **JURISDICTION AND VENUE**

9. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1330(a), as PDVSA is a foreign capital stock corporation owned directly by the Republic, which is a Foreign State. PDVSA has explicitly and unconditionally waived sovereign immunity under Section 10.10(c) of the Indentures with respect to actions arising out of or based on the securities issued pursuant to the Indentures, or arising out of or based on the Indentures themselves, by holders of the securities issued thereunder, and is, therefore, not entitled to immunity under 28 U.S.C. §§ 1605-07 or under any applicable international agreement with respect to the claims asserted in this action.

10. This Court has personal jurisdiction over PDVSA because PDVSA regularly conducts business in New York and PDVSA consented in the Indentures to submit to the jurisdiction of this Court, with respect to actions by holders of securities issued under the

Indentures, arising out of or based on such securities, or arising out of or based on the Indentures themselves.

11. Venue is proper in this district by agreement of the parties and pursuant to 28 U.S.C. § 1391(f).

12. PDVSA, as stated in the Indentures, has appointed Corporation Service Company as its authorized agent to receive and forward any writs, process and summonses in any suit, action, or proceeding brought in connection with the Indentures or the securities against PDVSA in any United States federal court sitting in the Borough of Manhattan, New York City.

### **FACTUAL ALLEGATIONS**

13. On or about April 12, 2007, PDVSA, PDVSA Petróleo, S.A., as guarantor, and the Wilmington Trust Company, as trustee, entered into a contract referred to herein as the “2007 Indenture.” The 2007 Indenture is governed by the laws of the State of New York.

14. On or about February 17, 2011, PDVSA, PDVSA Petróleo, S.A., as guarantor, and the Wilmington Trust Company, as trustee, entered into a contract referred to herein as the “2011 February Indenture.” The 2011 February Indenture is governed by the laws of the State of New York.

15. On or about November 17, 2011, PDVSA, PDVSA Petróleo, S.A., as guarantor, and the Delaware Trust Company, as trustee, entered into a contract referred to herein as the “2011 November Indenture.” The 2011 November Indenture is governed by the laws of the State of New York.

16. On or about November 15, 2013, PDVSA, PDVSA Petróleo, S.A., as guarantor, and the Delaware Trust Company, as trustee, entered into a contract referred to herein as the “2013 Indenture.” The 2013 Indenture is governed by the laws of the State of New York.

17. From time to time, PDVSA has issued Securities under the terms of the Indentures. The principal amount, interest rate, payment dates, and other relevant terms are set forth in the Securities themselves and the offering documents for each series. Plaintiffs' Securities (sometimes referred to as bonds or notes) represent duly issued and valid unconditional obligations of PDVSA. The Securities have been issued in series identified by ISIN number.

18. Plaintiffs hold beneficial interests in, and are the beneficial owners of, a substantial amount of the Securities. Specifically, Plaintiffs are the beneficial owners of Securities as follows:

ISIN No.	Indenture	Maturity Date	Interest Rate	Principal Amount Held by Plaintiff(s)
XS0294364954	2007 Indenture	04/12/2027	5.375%	\$80,000 – Ermanno Cavara and Anna Daniela Musiani
USP7807HAM71	2011 February Indenture	02/17/2022	12.75%	\$1,983,000 – Agustin Canosa Martinez \$40,000 – Massimo Mazzaccone
USP7807HAP03	2011 November Indenture	11/17/2021	9.000%	\$40,000 – Massimo Mazzaccone \$8,000 – Josef Johann Schneider
USP7807HAR68	2013 Indenture	11/15/2026	6.000%	\$1,900 – Marco Cavara

19. The Securities provide that PDVSA must repay principal on a series of Securities on the corresponding Maturity Date shown in the chart above.

20. The Securities provide that PDVSA must make interest payments on a series of Securities twice a year on the dates shown in the chart below:

<b>ISIN No.</b>	<b>Scheduled Payment Dates</b>	<b>First Missed Interest Payment</b>	<b>Interest Default Date</b>	<b>Current Amount of Unpaid Interest on Securities Held by Plaintiff(s)</b>
XS0294364954	Apr 12, Oct 12	04/12/2018	05/12/2018	\$23,650 – Ermanno Cavara and Anna Daniela Musiani
USP7807HAM71	Feb 17, Aug 17	02/17/2018	03/19/2018	\$1,516,995 – Agustin Canosa Martinez \$30,600 – Massimo Mazzaccone
USP7807HAP03	Apr 17, Nov 17	11/17/2017	12/17/2017	\$21,600 – Massimo Mazzaccone \$4,320 – Josef Johann Schneider
USP7807HAR68	May 17, Nov 17	05/17/2017	06/16/2017	\$684 – Marco Cavara

21. The scheduled twice-yearly interest payment dates, first missed interest payment date, and interest default date for each series of Securities, and the amount of unpaid interest per payment date are stated in the chart above.

22. The terms and conditions of the Securities provide that an “Event of Default” occurs if PDVSA fails to pay the principal, interest, or other amounts due on the Securities when due, and such failure continues for a period of 30 days.

23. Beginning in May 2017, PDVSA stopped making required principal repayments and/or required interest payments on each of the Securities. In each instance, PDVSA’s failure to pay continued for a period of more than 30 days; indeed, the amounts remain unpaid today. Each such failure to repay principal and to pay interest constituted an Event of Default on each of the series in which Plaintiffs hold beneficial interests.

24. PDVSA has missed the following payments for each of the series:

ISIN	Missed Scheduled Payments
XS0294364954	April 12, 2018; October 12, 2018; April 12, 2019; October 12, 2019; April 12, 2020; October 12, 2020; April 12, 2021; October 12, 2021; April 12, 2022; October 12, 2022; April 12, 2023.
USP7807HAM71	February 17, 2018; August 17, 2018; February 17, 2019; August 17, 2019; February 17, 2020; August 17, 2020; February 17, 2021; August 17, 2021; February 17, 2022; August 17, 2022; February 17, 2023; August 17, 2023.
USP7807HAP03	November 17, 2017; April 17, 2018; November 17, 2018; April 17, 2019; November 17, 2019; April 17, 2020; November 17, 2020; April 17, 2021; November 17, 2021; April 17, 2022; November 17, 2022; April 17, 2023.
USP7807HAR68	May 17, 2017; November 17, 2017; May 17, 2018; November 17, 2018; May 17, 2019; November 17, 2019; May 17, 2020; November 17, 2020; May 17, 2021; November 17, 2021; May 17, 2022; November 17, 2022; May 17, 2023.

25. To date, PDVSA has not paid certain principal and interest amounts due on the Securities.

26. Plaintiffs, as the beneficial owners of these Securities, are authorized to bring this action.

27. Plaintiffs' Securities are all outstanding under the terms of their respective Indentures.

28. On or about April 21, 2023, each Plaintiff sent a demand, via Canada Post's Registered International Service, to PDVSA at its address in Caracas for payment of the amounts of unpaid principal and/or interest on Plaintiffs' Securities at that date.

29. Despite these demands, PDVSA has failed to make any payments of unpaid principal and/or interest on Plaintiffs' Securities.

**CLAIM FOR RELIEF**

**(For Breach of Contract on Plaintiffs' Securities)**

30. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1 through 29 herein.

31. By reason of the foregoing, PDVSA has breached its contractual obligations to Plaintiffs, and PDVSA is liable to Plaintiffs for the amount of unpaid interest and principal, plus additional amounts of principal of, and interest on, Plaintiffs' Securities as such amounts accrue, become due, and remain unpaid by PDVSA, plus interest thereon.

WHEREFORE, Plaintiffs demand judgment against PDVSA, as follows:

- i. Awarding Plaintiffs damages against PDVSA in the amount of at least \$3,750,749, plus interest. This amount includes the total principal owed to Plaintiffs (\$2,152,900), plus the total missed interest payments owed to Plaintiffs (\$1,597,849); and
- ii. Awarding Plaintiffs their costs, attorneys' fees, and such other further relief as this Court shall deem just and proper.

Dated: New York, New York  
October 11, 2023

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